

MEMORANDUM

Agenda Item No. 9(A)(2)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: September 16, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution rescinding
Administrative Order 7-41
and approving Implementing
Order 7-41, pre-employment
fingerprint-based criminal history
records check, as specified by
Florida Statute 125.5801

The accompanying resolution was prepared by the Human Resources Department and placed on the agenda at the request of Prime Sponsor Health and Social Services Committee.



R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum



Date: September 16, 2014

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to be "Carlos A. Gimenez", written over a horizontal line.

Subject: Rescinding Administrative Order 7-41 and Approving Implementing Order 7-41
Regarding Comprehensive Pre-Employment Criminal History Record Checks

Recommendation

It is recommended that the Board of County Commissioners (Board) rescind Administrative Order 7-41 and approve Implementing Order 7-41 to authorize Miami-Dade County to perform comprehensive pre-employment fingerprint-based criminal history record checks as specified by Florida Statute 125.5801 as amended July 1, 2013. This item is accompanied by an ordinance that amends Section 5.05 of the County Code to reflect recent statutory changes.

Scope

This Implementing Order will have a countywide impact.

Fiscal Impact

There will be a fiscal impact to all County departments conducting pre-employment fingerprint-based criminal history record checks. This is based upon the wider scope of potential employees, volunteers or appointees that will require background checks. The costs associated with this process will be borne by each County department as applicable.

Track Record/Monitoring

The Human Resources Department will continue to manage the use of criminal history background checks in the recruitment and selection process in accordance with the provisions contained in the Implementing Order.

Background

On January 20, 2005, the Board approved Resolution R-71-05, an Intergovernmental Agreement between Miami-Dade County and the State of Florida Department of Law Enforcement (FDLE) which allowed the County access to the state and national fingerprint criminal history records databases of FDLE and Federal Bureau of Investigations (FBI).

In 2013, Florida State Statute 125.5801 was amended to allow for the expansion of state and national pre-employment criminal history background checks for certain County employees and appointees to include applicants, volunteers, interns, contractors and contractual temporary personnel to positions deemed critical to security or public safety through passage of an authorizing ordinance by the County's governing body (Board). In order to comply with State Statute 125.5801, Implementing Order 7-41 will also reflect the Board's authority under the amended Statute.

All information obtained from the background checks are exempt from public records requests and will be used by hiring managers to make informed hiring selections to provide for fair, non-discriminatory treatment and to minimize exposure to any post-employment misconduct.

Attachment

A handwritten signature in black ink, appearing to be "Edward Marquez", written over a horizontal line. To the left of the signature is a small, stylized mark that looks like "for".

Edward Marquez
Deputy Mayor



MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: September 16, 2014

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 9(A)(2)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☒ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☒ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 9(A)(2)
9-16-14

RESOLUTION NO. _____

RESOLUTION RESCINDING ADMINISTRATIVE ORDER 7-41 AND APPROVING IMPLEMENTING ORDER 7-41, PRE-EMPLOYMENT FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK, AS SPECIFIED BY FLORIDA STATUTE 125.5801

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board rescinds Administrative Order 7-41 and approves Implementing Order 7-41, authorizing Miami-Dade County (MDC) to perform comprehensive pre-employment fingerprint based criminal history record checks as specified by Florida Statute 125.5801, in substantially the form attached; and authorizes the County Mayor or County Mayor's designee to exercise any and all rights conferred in the Implementing Order.

The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman
Lynda Bell, Vice Chair

Bruno A. Barreiro
Jose "Pepe" Diaz
Sally A. Heyman
Jean Monestime
Sen. Javier D. Souto
Juan C. Zapata

Esteban L. Bovo, Jr.
Audrey M. Edmonson
Barbara J. Jordan
Dennis C. Moss
Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 16th day of September, 2014. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

WXC

William X. Candela

A.O. I.O. No.: 7-41
Ordered: 10/18/2005
Effective: 10/28/2005

MIAMI-DADE COUNTY
ADMINISTRATIVE IMPLEMENTING ORDER

PRE-EMPLOYMENT FINGERPRINT-BASED CRIMINAL HISTORY RECORDS CHECK

AUTHORITY:

Section 4.02 of the Miami-Dade County Home Rule Amendment and Charter; Section 2.42 of the Code of Miami-Dade County.

SUPERSEDES:

This Implementing Order supersedes the Administrative Order 7-41, approved by the Board on October 18, 2005 and effective October 28, 2005.

POLICY:

It is the policy of Miami-Dade County to perform a comprehensive pre-employment fingerprint-based criminal history records checks on applicants, volunteers, interns, and contractors, and contractual temporary personnel prior to the commencement of employment/ or service with the County. The review of criminal history information and its potential relevance to job responsibilities, is a pre-employment requirement, and no person shall be appointed or permitted to begin work with the County without an appropriate level of review of this information by each department's hiring authority. Criminal history information should be used by hiring managers to make informed selection decisions and to minimize exposure to any post-employment misconduct.

APPLICABILITY OF THIS ORDER:

The County's background check will be administered by the ~~Employee Relations~~ Human Resources Department (HERD) and will include a pre-employment fingerprint-based criminal history records check through the Florida Department of Law Enforcement (FDLE)'s and Federal Bureau of Investigations (FBI) Volunteer and Employee Criminal Records History System (VECHS) program databases. Except as herein provided, all new hire employees will undergo such a background check, except new hire employees of certain County departments that are subject to a special provisions of the Florida Statutes mandating a fingerprint-based criminal history records checks that includes a Florida Department of Law Enforcement (FDLE) and Federal Bureau of Investigations (FBI) database search. Departments that are required to conduct these special background checks under other Florida statutory requirements must comply with the provisions. If the requirements of these statutory provisions do not include, at a minimum, a fingerprint-based check of the FDLE and FBI databases, the employee will be subject to the background check as administered by ERD~~HERD~~.

PROCEDURE:

It is vitally important to ensure the timely and fair use of such information as a component of Miami-Dade County's hiring process.

Due to the sensitivity of information which may be obtained contained from in the criminal history background checks and the potential liability of maintaining and/or the misuse~~ing~~ of such

information, the ~~Employee Relations~~ Human Resources Department (Recruitment and Internal Placement and Fair Employment Practices sections, ~~—~~) will consult with the U.S. Equal Employment Opportunity Commission (EEOC), Florida Department of Law Enforcement, Office of Fair Employment Practices ~~and the Miami-Dade Police Department and~~ will work with the County Attorney's Office to develop maintain appropriate guidelines on the interpretation, ~~and utilization and safeguarding of~~ ~~—of—~~ criminal history information. This information will be disseminated to hiring departments through mandatory training that will be provided to those individuals responsible for requesting, interpreting, and maintaining the results of background checks to ensure that this information is used in a responsible manner that provides for fair, non-discriminatory treatment.

Criminal history information obtained through the ~~VECHS~~ FDLE and FBI databases ~~—system is~~ are exempt from public records requests and therefore must be maintained accordingly.

This Administrative ~~—Implementing~~ Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

George M. Burgess
County Manager